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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Seventeenth session

SUMMARY RECORD OF THE 29th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 18 November 1997, at 10 a.m.

Chairperson: Mr. ALSTON

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The meeting was called to order at 10.10 a.m.

ORGANIZATION OF WORK (agenda item 2) (continued)

1. The CHAIRPERSON said that, following consultations, it appeared that members agreed to take note of the difficulties regarding the finalization of the report of Canada and to postpone consideration of that country report from the first to the second 1998 session. It was his understanding that the Government of Canada would also agree to those terms. If he heard no objections, he would take it that the Committee favoured that approach.

2. It was so decided.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6)

Second periodic report of the Dominican Republic (E/1990/6/Add.7)

3. At the invitation of the Chairperson, Ms. Bonetti Herrera, Ms. Sabater de Macarrulla, Mr. Landolfi, Mr. Toca Simó and Ms. Román Maldonado (Dominican Republic) took places at the Committee table.

4. The CHAIRPERSON reminded members of the background to the discussion. A set of concluding observations had been adopted and two members of the Committee, Mr. Wimer and Mr. Texier, had visited the Dominican Republic on mission in September. The Committee was pleased that cooperation with the Government of the Dominican Republic had been steadily improving.

5. Ms. BONETTI HERRERA (Dominican Republic) said it was to be hoped that the mission which had visited the Dominican Republic last September at the invitation of her Government had taken account of the efforts made by the President of the Dominican Republic, Mr. Fernández Reyna, to comply with all the obligations under the Covenant entered into by the Government.

6. Ms. SABATER DE MACARRULLA (Dominican Republic) said it was gratifying that the members of the mission had had an opportunity to see for themselves the changes that had taken place in the Dominican Republic.

7. Mr. LANDOLFI (Dominican Republic) said that, initially, the report of the Dominican Republic had referred to the country's institutional process, which had been based on the constitutional reform of June 1994 establishing the independence of the judiciary. A National Council of the Judiciary, created to ensure the complete independence of the courts from outside influence, had elected a new Supreme Court, which was responsible for appointing all court personnel. Legislation guaranteeing budgetary independence of the judiciary from the executive had also been enacted. Hence, a radical democratic process was under way for the first time in the history of the Dominican Republic. It was important to realize the magnitude of the changes taking place, which had begun on 16 August 1996, when Dr. Fernández Reyna had been elected President in the freest elections the country had ever seen. Of course, given centuries-old social problems, change

took time. Institutional and constitutional reforms were still pending. The report of 1994 had been expanded on to reply to the questions raised by the Committee and to illustrate the economic, social and cultural rights enjoyed by the people of the Dominican Republic.

8. Mr. TEXIER, thanking the delegation of the Dominican Republic for its cooperation, said that He would briefly summarize the report on the mission. Both he and Mr. Wimer had been very impressed by the way the mission had been prepared. They had been received by representatives of the Government at all levels, including the President, the Ministers of Labour, Health and Education, the Delegate for Women's Affairs and all institutions involved with the mission's terms of reference, namely the problem of housing and the situation of the Haitians living in the Dominican Republic. Mr. Wimer and he had travelled throughout the national territory without the slightest restrictions. The Government had shown a thorough knowledge of the subject, had never sought to conceal the facts and had displayed a genuine desire for change. The NGOs, above all Ciudad Alternativa and COPADEBA, had also worked hard in making preparations and had arranged the field visits, which was the best way of seeing what the situation in a country really was. One important development noted was readiness on the part of the Government and society to work together. That was true of the plans for renovating a number of neighbourhoods they had visited. Relations between the Dominican Republic and the Committee, which had not always been straightforward, had improved considerably.

9. He shared Mr. Landolfi's view of the importance of the 1994 reform giving the judiciary greater independence.

10. To take the question of housing first, the desire for change had been reflected in the holding, at the end of 1996, of a National Forum for a new housing policy in the Dominican Republic, which had brought together representatives of Government, NGOs and various experts and was in keeping with the recommendations made at the Habitat II Conference in Istanbul in June 1996. In the course of the Forum, the National Housing Agency (INVI) had stated that the efforts made by successive Governments over the past 25 years had clearly been insufficient and the problem remained acute. According to figures provided at the Forum, some 46 per cent of existing housing was inadequate and 11 per cent dangerous. The housing shortage had officially been estimated at between 500,000 and 600,000 units. In dealing with the problem, the multitude of overlapping governmental housing agencies did not always coordinate their efforts sufficiently. The Government had taken cognizance of the difficulty and showed the will to resolve it, but that would entail a long-term effort. INVI had plans for 100,000 housing units in the next four years and would be involving the private sector in a strategy to reduce the shortage.

11. As to the question of evictions from insalubrious neighbourhoods and of resettlement, there had been a clear change in policy at all levels. No evictions had been carried out in the public sector since the election of President Fernández Reyna. In the past, however, there had been tens of thousands, primarily in Santiago, San Juan de la Maguana, Boca Chica, El Seyro and the capital. Many people who had lived in the north of the capital had been threatened, and a number of large-scale evictions had taken place on the

occasion of the construction of the Columbus lighthouse. One significant change was that Decree No. 358/1991, which had made provision for a military presence in the Ciénaga-Guandules neighbourhoods, had been rescinded and replaced by Decree No. 443/1996, which allowed free movement of the population and ordered the start of a programme to improve the two neighbourhoods.

12. A second measure taken very promptly was the agreement signed with 209 evicted families that had occupied three churches for one and a half years: to date, 81 of those families had been rehoused in Guaricano. A third measure concerned the Presidential Order to provide quarters for the 681 families living in the Los Alcarrizos slums since 1979, where they had been relocated following a destructive hurricane. Half those families were to be assigned other housing. Accordingly, a solution for the others would also need to be found.

13. Consultation mechanisms had been set up by the Government in the elaboration of national plans. In that connection, it was worth mentioning the project to create an Ombudsman or similar legal figure, that a project that commanded the support of a number of associations in Dominican society as well as the United Nations Development Fund (UNDP), which was present in the Dominican Republic and had contributed to the success of the mission.

14. To illustrate the progress made, as well as the problems that persisted, one could cite the example of La Ciénaga and Los Guandules, where a residents' association had produced what they had called the CIGUA plan for an overall solution to a whole range of problems facing those neighbourhoods. It was a good example of what cooperation between communities and governmental and municipal authorities could achieve. But clearly, a long-term effort was needed. Property ownership was still a very sensitive issue and would probably take many years to resolve.

15. The problems associated with housing had to do with the inadequate resources allocated to that sector and the scattered nature of the bodies dealing with the matter. It was necessary to create a ministry of housing to bring those bodies together and, at the same time, decentralize so as to allow some decisions to be taken at neighbourhood level with greater involvement of the community.

16. In a number of neighbourhoods, the withdrawal of military forces had not been completed. The deadlock in the Senate over a bill to regulate land ownership would need to be resolved. Some 500,000 persons were concerned and evictions from private land were still continuing, although the ownership of the land was still not clearly established. A land registry would help deal with those problems.

17. The other aspect focused on in the mission's report, the situation of the Haitians in the Dominican Republic, was certainly one of the most difficult problems facing the country. The influx of Haitians seeking work was not new, but it was a chronic problem of the two countries which shared the island and was rooted in the fact that Haiti was poorer than the Dominican Republic. The border was very long and easy to cross. Reliable figures were difficult to obtain. The Director-General of Migration had estimated that there were 500,000 to 600,000 Haitians in the

Dominican Republic, but higher figures had also been advanced by other sources. Regardless of the exact numbers, only 5 per cent of that population had papers and the illegal status of the others was passed on from one generation to the next. Many parents did not register the birth of their children, because they themselves were illegal residents. Moreover, some hospitals refused to record the births. Dominican citizenship was based on jus soli, yet Haitians born in the Dominican Republic did not acquire Dominican nationality. The contention was that it would be contrary to the principles of jus sanguinis set forth in the Haitian Constitution to grant Dominican nationality to Haitians. That deprived them not only of their civil and political, but also of their social rights; they were not eligible for social security, health care, education and so on. The official position was that the Haitians were migrants in transit and intended to return to their country, but in reality many Haitians had settled in the Dominican Republic for good.

18. Haitian migrant workers were employed in housing, among other sectors. Those who worked as cane-cutters on sugar plantations lived under deplorable conditions in a particularly wretched environment outside the harvest season. Admittedly, the position of workers had improved significantly since previous decades, when labourers had worked under conditions akin to slavery. Although current salaries were still relatively low, they were on a par with those paid to workers in other sectors. The fate of the Sugar Affairs Council, which was slated for privatization, figured among the major concerns of the Haitian community.

19. The Committee's concluding observations and the recommendations on the Dominican Republic should reflect the radical changes in the Government's approach to the social problems.

20. Mr. WIMER expressed his gratitude to the NGOs in the Dominican Republic which had greatly contributed to the success of the mission and said he wished to reiterate Mr. Texier's view that the visit had been highly satisfactory.

21. Although difficulties remained, it was important to note that the Government had adopted positive policies and attitudes to deal with the situation and displayed keen interest in the areas of housing and wages. Teachers' salaries had been raised by 100 per cent, despite enormous economic constraints.

22. However, he was not convinced that the Government had the political will to improve the treatment of Haitians and their children living in the Dominican Republic. It was not only a question of nationality, but also one of civil status, and the failure of officials to register children of Haitians in health institutions, for example, amounted to administrative discrimination. Admittedly, that complex problem had deep social, political and historical roots for which there were no easy solutions. While he acknowledged the tremendous progress achieved through the Government's urban and social policy, he nonetheless urged the competent authorities to make a full assessment of the serious situation facing Haitian migrant workers and their families, in an endeavour to resolve it. On behalf of the Committee, he thanked the delegation for the facilities provided during the mission and for having allowed the work to be done in complete freedom.

23. The CHAIRPERSON thanked Mr. Texier and Mr. Wimer for their report and said that the Committee was accustomed to facing a number of obstacles in conducting such missions. In a departure from past experience, the experts had had the full cooperation of the United Nations Development Programme field office, and the usual conflicts between NGOs and Governments had not emerged. The Committee had also become accustomed to having a long list of complaints which were not adequately addressed, and that had proved not to be the case. The mission had progressed as a textbook example of cooperation between the Committee, its delegation of experts, the UNDP representative, the Government and civil society. It was indeed a unique moment for the Committee.

24. He wished to express appreciation for the work accomplished by the experts and the Secretary of the Committee, who had made extensive preparations for the mission. Perhaps the Committee should send a letter to UNDP acknowledging its exemplary cooperation. He joined his colleagues in thanking the Government of the Dominican Republic and the NGOs. The Committee was not in a position to dictate policy or even to identify perfect solutions. At best, it could act as a catalyst for sustained national dialogue and he was pleased to admit that, in the case of the Dominican Republic, the Committee seemed to have achieved success.

25. Mr. SADI said that he did not have a complete picture of the housing situation or the plight of Haitians in the Dominican Republic. Had the two experts been able to pinpoint the real source of the problems? Again, in view of the state of the Dominican economy, could the Government have done more to correct those problems?

26. Mr. AHMED said he welcomed the new Government's position on evictions, but there was still a need for specific information on how the Government intended to alleviate the housing crisis. He wondered whether a solution was foreseeable and, if so, what time span could be envisaged. Furthermore, what steps were being taken to ease the plight of Haitians who were denied participation in the social welfare and education systems?

27. As to the more general aspects of the Dominican situation, the Committee's preliminary concluding observations (E/C.12/1996/Add.6) raised a number of subjects of concern. With the benefit of a high-level delegation in attendance and the input from the expert mission, the Committee expected to be in a position to produce a definitive report on the Dominican Republic after the present session. He therefore asked the Dominican delegation to address the principal subjects of concern contained in Section D, paragraphs 11 to 25, of the preliminary observations. Were those subjects being discussed by the Government, was the Government contemplating new policies or was there anything that could be done to rectify the situation?

28. Mrs. BONOAN-DANDAN said some advances appeared to have been made in regard to the status of women. For instance, they were now entitled to own property, but what was the socio-cultural role of women in Dominican society and the position concerning relations within the family? What kind of discrimination did Dominican women suffer - for example, in the workplace? She would also like to know to what extent the laws on child labour were being implemented, and what kind of obstacles the Government had encountered in

fulfilling its obligations in that regard. Unfortunately, the status of Haitians in the Dominican Republic did not seem to coincide with assertions made by the Government under article 7 of the Covenant.

29. A recent article in the press had spoken of a wave of violent popular protests - involving a dozen deaths and hundreds of arrests - against energy blackouts, rising prices and the general deterioration in living standards. How exactly was the Government tackling the causes of unrest? Lastly, she would like further information on allegations of irregularities in adjudicating contract bids. It seemed that the President had failed to deliver on one of his basic election promises, namely, transparent government.

30. Mr. ANTANOVICH said the movement of Haitians to the Dominican Republic reflected a universal process of uncontrolled and chaotic migratory flows to countries of greater economic opportunity. There were in fact two flows affecting the Dominican Republic. The large-scale emigration of highly-skilled Dominican workers left openings that were being filled by uneducated Haitians. Apparently, the expenditure on education and training as a proportion of public expenditure was less than half of the average for Latin America. It created an explosive situation and would inevitably lead to a deterioration in working conditions which could already be characterized as unacceptable.

31. Perhaps the delegation would comment on future plans for controlling the inward and outward migration. Could the solution possibly be found through common guidelines for regional development, or through assistance from international organizations?

32. Mrs. JIMENEZ BUTRAGUEÑO said that the position with regard to immigration was of considerable concern, especially as it affected children and led to separation from their families. Housing was another cause for anxiety - having so many bodies involved in housing allocation was bound to cause difficulties. Lastly, she asked whether women were discriminated against in any area of legislation or whether they always enjoyed the same standing in law as did men. Violence against women was a serious problem throughout the world. Had the Dominican Republic any measures in place to deal with it?

33. Mr. LANDOLFI (Dominican Republic), referring to paragraph 11 of the preliminary concluding observations (E/C.12/1/Add.6), said that the press, radio and television in the Dominican Republic gave the public access to a broad range of information and drew their attention to any alleged abuses throughout the country.

34. With regard to paragraph 12, there had been very little development of constitutional law in the Dominican Republic. The major reform of 1994 was still very recent, and consequently the reform process was still not fully complete and much remained to be done. Although constitutional law did recognize international treaties, a legislative act was needed to make them part of domestic law.

35. The statement in paragraph 13 that the men and women in the bateyes were the principal national group was incorrect, as it was a Haitian and not a national group. The Dominican Republic was deeply concerned about the systematic daily influx of large numbers of Haitians across its borders, which was difficult to prevent because the frontier was not sealed off. It was not a case of discrimination against Haitians: illegal entry by nationals of any country was unwelcome. The insecurity of the illegal Haitian immigrants was also a matter for concern, but the main reason was they had no papers of any kind, which meant that neither they nor their families could be registered. The Government and people of the Dominican Republic would like to see the situation regularized so that immigration from Haiti could be undertaken in a constructive manner. Despite the difficult history between the two countries, the Dominican Republic was anxious to solve the problem and had no wish to conceal the facts.

36. Haitians working as cane-cutters in the Dominican Republic did not enjoy a proper standard of living because the wages in the industry remained very low, despite improvements in other industrial and agricultural sectors where workers enjoyed better housing, medical care and access to electricity services and piped water. However, the wages and conditions of Haitians working in the sugar cane industry were the same as those of Dominicans doing similar work. Throughout its history, the sugar cane industry in the Dominican Republic had depended on imported labour.

37. The CHAIRPERSON said the Committee had available to it a large body of information indicating that the conditions for Haitian workers were clearly and demonstrably unsatisfactory, far more unsatisfactory than those of Dominicans in the same employment. Reference to historical precedents would not change that fact. Unless the Committee was provided with factual evidence that the situation was changing, it would have no option but to conclude that the conditions described in paragraph 13 continued to prevail.

38. Mr. AHMED, endorsing the Chairperson's comment, said he would welcome a more constructive approach to dealing with Haitian immigration and looked forward to hearing how the Dominican Republic hoped to arrive at one. Was any attempt being made to seek dialogue between the two countries to ensure an organized immigration policy that would alleviate the present suffering? What developments were expected in the future?

39. Mr. ADEKUOYE said he, too, shared the Chairperson's concern. What the Committee needed to know was the short- and long-term action the Dominican Republic had in mind for improving the situation of Haitians in the country and the prospects for negotiation and agreement on the subject.

40. Ms. SOBATER DE MACARRULLA (Dominican Republic) said that one of the measures adopted recently to improve the lot of Haitian immigrants was to promote legal employment of Haitians for the next harvest under a direct agreement between the two Governments. Measures were also being taken to ensure humane conditions for their stay in the cane fields. An attempt was also being made to reduce the numbers of immigrant workers employed. The wages of both Dominicans and Haitians had been improved. The housing authorities had made every effort to improve living conditions in the bateyes, providing dispensaries, schools and drinking water supplies.

41. Many Haitian workers in the Dominican Republic were employed, not in the cane fields, but in the construction industry, where they enjoyed the same conditions of work and pay as Dominicans. Those conditions were improving. No discrimination was practised against Haitian children, who could freely enrol in State schools.

42. The charge that racial discrimination was practised in the Dominican Republic was untrue. The Dominican people were of mixed race and saw no need for discrimination. People of all skin colours were found in all professions at all levels. Although some social discrimination might exist, racial discrimination as such did not. At present, the Ministry of Education was engaged in supervising the preparation of school textbooks to make sure that they fostered no sexual, racial or any other kind of discrimination.

43. Mr. LANDOLFI (Dominican Republic) said that the cause of the failure to register Haitian children born in the Dominican Republic was that the parents generally had no legal papers at all. Children could not be entered in the register of births without the presentation of proper identity documents by the parents. That lack of papers was the principal cause of the difficulties experienced by Haitian immigrant workers in general. The Dominican Government was anxious to have the situation regularized. In an effort to overcome past problems between the Dominican Republic and Haiti, a bilateral high-level committee had been established that met every six months alternately in each capital. The committee included sub-committees of experts dealing with various sensitive issues, one of them being the large number of illegal Haitian immigrants in the Dominican Republic. It should not be forgotten, however, that many thousands of Haitians had acquired a legal right of residence in the country and enjoyed the same conditions there as other legal foreign residents.

44. As to paragraph 14, the confiscation of identity cards was the result of the practice followed by a number of political parties of issuing identity cards to illegal Haitian immigrants as a means of ensuring votes. It was necessary in any country where there were large numbers of illegal immigrants or temporary visitors for law enforcement officers to be able to check the identity of persons and have the authority to deport those without the requisite papers. In the Dominican Republic such measures were not specifically directed against Haitians; persons of other nationalities, without legal residence status were also deported, as had happened in many cases.

45. The statement in paragraph 15 that "Black Dominicans are often subject to the same arbitrary police and administrative discrimination as temporary Haitian workers" lacked both truth and substance. The Dominican Republic was not a white country; it had for centuries, been a multi-ethnic mix. It was nonsense to suggest that racial discrimination existed there. Furthermore, since accession to independence, the country had made every effort to recognize the absolute equality of all Dominicans. Admittedly, economic factors had created social classes, an unfortunate feature of all societies.

46. Mr. RIEDEL said he found it difficult to accept the broad statement made by the Dominican delegation about the matter of discrimination. Empirical

facts showed that certain sectors of the population did not benefit from the same social status. To shift the emphasis from racial discrimination to social class seemed no more than an excuse.

47. While he was sympathetic to the Dominican Republic's problems in coping with its "green border", there was no justification for leaving illegal workers to their own fate. The delegation had said that the Governments of the Dominican Republic and Haiti were working together to establish harvesting agreements, which seemed to be the right approach. It had been asserted that Dominicans and Haitians were paid on the same basis, but that applied only to legal workers. The fact that a worker did or did not possess papers should not determine whether he was entitled to basic human rights. The Dominican Republic should provide information on the treatment of illegal workers.

48. Mr. TEXIER said the Government should state clearly its intentions with regard to the status of Haitians. Official statistics set the number of Haitian workers in the Dominican Republic at approximately 500,000. Only 5 per cent had papers. The reform legislation proposed by the Dominican and Haitian Joint Commission would in future provide individual contracts and adequate return transport for workers who came to the Dominican Republic solely for the sugar cane harvest. The substantive issue was those Haitians who had lived for a long time, sometimes for more than a generation, in the Dominican Republic but were unable to regularize their status and therefore were not accorded basic human rights. Dominican nationality law was based on the principle of jus soli: children born in the Dominican Republic were Dominican citizens. That, however, was not true in the case of children born to Haitian parents, for the authorities considered that such parents were migrant workers without permanent status. He was aware that reform legislation was under consideration, but the question must be raised of what happened to children of immigrants now. They should certainly be considered as resident nationals, with all the relevant rights. What measures, if any, had the Government envisaged? It might be useful to consider addressing that problem within the framework of the Dominican and Haitian Joint Commission.

49. Mr. ANTANOVICH said that the Dominican delegation should strive to be more precise. Paragraph 14 stated, with reference to "Dominican citizens of Haitian origin", that it was necessary to adopt clear legislation on nationality. He was aware that nationality was an explosive issue in many countries, but he was also aware of the extreme vulnerability of immigrants. Paragraph 15 said that the State violated the cultural rights of Blacks by allowing police to suppress African cultural practices, and that such discrimination was encouraged in schools and workplaces. The Government should describe any specific measures it was taking to address those matters.

50. Mr. ADEKUOYE said various reliable sources indicated that many Dominicans were strongly prejudiced against Haitians and that the Government failed to acknowledge such discrimination or to take any measures to combat it. It was clear that Haitians in Dominican society were confronted with significant barriers to social advancement. Although legislation was well-meaning and unambiguous, a gap existed between law and practice. The Government should describe any measures it was taking to change discriminatory attitudes.

51. Mr. LANDOLFI (Dominican Republic) agreed that the problem raised by Mr. Adekuoye must be addressed urgently. Admittedly, the climate in the Dominican Republic was unfavourable to illegal Haitian immigrants. But other matters arose in that context: various international bodies were bringing pressure to bear on the Dominican Republic to educate its citizens in patois and Creole, rather than in Spanish, which had been the language of that country for five centuries. The Dominican Republic had lived under two centuries of subjection by force; it did not wish to submit to peaceful subjection by foreign organizations.

52. Mr. TEXIER said that Creole was a language officially recognized by the United Nations. His concern lay elsewhere, however. A significant sector of the Haitian population working in the cane fields in the Dominican Republic was both bilingual and fully assimilated into that society, but had no civil status. Criteria should be established for issuing papers to those persons, who, at the present, were not in fact persons in the legal sense of the term.

53. Mr. ADEKUOYE recalled that the Human Rights Committee, in document A/48/40, had recommended that the Dominican Republic should take further steps to eliminate discrimination towards ethnic, religious and linguistic minorities. In that light, he wondered how the Dominican delegation could suggest that the content of paragraph 15 was nonsense.

54. Mr. RATTRAY said many countries followed the practice of regularizing the status of illegal immigrants by granting some form of amnesty after a certain period of time. The Dominican Republic might consider - possibly within the framework of the Dominican and Haitian Joint Commission - granting the legal right of permanent residence to those immigrants who had lived in the country for a period of 10 or more years.

55. Throughout history, in many countries of the world, the shade of one's skin had been a motive for discrimination. It would be useful to know if the new administration had contemplated programmes to assess and combat racial discrimination in employment and education.

56. Mr. ANTANOVICH said that paragraph 14 was categorical: the Dominican Republic must adopt clear legislation on nationality. Was the adoption of such legislation being considered? It would be useful to know whether the Government envisaged granting legal status to persons of Haitian origin born in the Dominican Republic, and granting Dominican nationality to Haitians through the process of naturalization under the same conditions that obtained for other foreigners.

57. Mr. GRISSA said that paragraph 4 of the report of the Dominican Republic (E/1990/6/Add.7) indicated that 75 per cent of the Haitian population was mulatto, 15 per cent white, and the remainder black. It also stated that there was no differentiation on the basis of ethnicity. The question arose as to what it meant to be mulatto, white, or black after so many centuries of coexistence. Apparently, most Government posts were held by Whites, which surely indicated that discriminatory practices persisted in Dominican society. Had the percentage of Whites in the Government been assessed?

The meeting rose at 1 p.m.